STATE OF MICHIGAN

COURT OF APPEALS

DEBORAH LYNN ARNSON,

Plaintiff-Appellant,

v

COUNTY OF MUSKEGON,

Defendant-Appellee.

UNPUBLISHED
December 19, 1997

No. 197721
WCAC
LC No. 92-000228

Before: Saad, P.J., and Neff and Reilly, JJ.

PER CURIAM.

This worker's compensation case is before us on remand from our Supreme Court for consideration as on leave granted. 453 Mich 882. After careful review of the record and the applicable law, we reverse the ruling of the WCAC and reinstate the ruling of the magistrate awarding benefits to plaintiff.

Plaintiff suffers a psychiatric disability that the magistrate found to be compensable. Twice on review the WCAC disagreed and reversed an open award of benefits. However, our review of the legal principles applied by the WCAC reveals errors that lead us to the same conclusion as the magistrate.

I

Plaintiff was employed by the Muskegon County Friend of the Court at a time when there was, by all accounts, substantial turmoil in the office. Concerns of staff members, including plaintiff, led to discussions with the chief judge of the circuit court regarding the management of the office by the statutory friend of the court; ultimately, a packet of materials outlining these concerns was submitted to all of the circuit court judges. The judges were sufficiently impressed with the materials submitted by the employees that they requested a full scale investigation of the office by the State Court Administrator's Office. Numerous meetings were conducted by the investigator over a period of months. The result of the investigation was a highly-charged meeting at which the employees were informed that nothing further would come of their efforts to improve the management or work atmosphere of the office. Plaintiff and other employees were disappointed at the outcome of their efforts. Shortly afterwards,

plaintiff's stress level made it impossible for her to continue working. As held by the magistrate: "There is no question from the testimony of Dr. Bond, Dr. Swart (Plaintiff's treating psychologist), and Dr. Auffrey (Defendant's examining psychologist) that Plaintiff was disabled by anxiety and depression caused by the very real events at work."

II

The compensability of mental disabilities under Michigan worker's compensation law has been the subject of both statutory and common law change. The current state of the law is expressed in MCL 418.301(2); MSA 17.237(301)(2) and *Gardner v Van Buren Public Schools*, 445 Mich 23; 517 NW2d 1 (1994). To establish the existence of a compensable mental disability claim, plaintiff must prove: (1) a mental disability;[1] (2) arising out of actual events of employment, not unfounded perceptions thereof; and that (3) those events contributed to, aggravated, or accelerated the mental disability in a significant manner. *Gardner, supra* at 27-28

III

In applying *Gardner,* the WCAC focused on the second prong of the test outlined above and found that plaintiff did not prove actual events of employment which significantly contributed to her mental disability. The WCAC found that plaintiff's proofs did not show events of employment "specific to plaintiff" and that under *Bachula v General Motors Corp.,* 191 Mich App 193; 477 NW2d 486 (1991), plaintiff could not recover. The WCAC has misconstrued both *Gardner* and *Bachula*, neither of which stands for the proposition that the events leading to mental disability must be specific to the claimant and not generalized across the entire work force. The WCAC applied an improper legal standard in deciding the compensability of plaintiff's claim.

In this case there is no doubt that the plaintiff's workplace was extremely stressful. The WCAC explained that the management style employed by the friend of the court "…left much to be desired and was the source of *enormous stress and anxiety* in the office." [emphasis added]. However, the WCAC held that this was not enough to establish a claim for mental disability under *Bachula*, *supra*. *Bachula*, like the present case, involved a combination of high levels of generalized workplace stress and some instances specific to the claimant. The finding of compensability was upheld in *Bachula*.

The work situation in the friend of the court office was obviously far beyond ordinary or innocuous job stress, see *Lombardi v Beaumont Hospital (On Remand),* 199 Mich App 428, 434-435; 502 NW2d 736 (1993) and it contributed to plaintiff's disability in a significant manner as was recognized even by the mental health professionals who examined plaintiff on behalf of defendant. Under these circumstances, even though plaintiff articulated relatively few instances of work-related stresses which related directly or solely to her, the significant and unusual pressure of the workplace constituted a "totality of the occupational circumstances" which cannot be overlooked in a determination of compensability. *Gardner,* 445 Mich at 47; *Goff v Bil-Mar Foods (After Remand),* 454 Mich 507, 510; 563 NW2d 214 (1997).

Defendant's brief on appeal echoes the WCAC opinion in arguing that plaintiff has failed to allege and prove enough specific instances of "harassment" to adequately support her claim. However, plaintiff's claim does not rest on claims of "harassment", but on "job-related stress" as noted on the Form 100, Employer's Report of Injury. Plaintiff's petition for benefits details job-related stress factors in some detail as the basis for her claim, making no mention of a claim based on "harassment".

Until the conditions in the office reached a nadir in late 1989 plaintiff was an effective employee, able to cope with the stresses and strains of a difficult job. It was only when the investigation of the State Court Administrator's investigator came to naught and there was an apparent threat of retaliation against employees who participated in the "palace revolt" that plaintiff became disabled. Under these circumstances, plaintiff's disability was compensable. *Corbett v Plymouth Twp,* 453 Mich 522, 551; 556 NW2d 478 (1996); *Gardner, supra*. The disability grew out of actual events of plaintiff's employment. As noted in *Gardner*, actual events of employment, even if ordinary, can injure the mental health of a predisposed individual. *Id* at 50; see also *Zgnilec v GMC Service Parts Corporation*, 224 Mich App 392; 568 NW2d 690 (1997).

In reversing the magistrate's award of benefits, the WCAC applied an erroneous legal standard and misapplied the principles articulated in both *Gardner* and *Bachula*. Plaintiff alleged and proved a mental disability which arose out of actual events of employment which events contributed to, aggravated, or accelerated her mental disability in a significant manner. Accordingly, this matter is reversed and remanded for proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Janet T. Neff
/s/ Maureen Pulte Reilly

[1] Defendant does not dispute that plaintiff suffered a mental disability.